



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/550,396

09/22/2005

Ken Takachi

070456-0093

2297

20277 7590 06/23/2009
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

EXAMINER

ANGLO, LHEIREN MAE ACOSTA

ART UNIT

PAPER NUMBER

2833

MAIL DATE

DELIVERY MODE

06/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/550,396	Applicant(s) TAKACHI, KEN	
	Examiner LHEIREN MAE A. ANGLO	Art Unit 2833	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 7-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6 and 12 is/are rejected.
- 7) ☒ Claim(s) 3,4 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20050922,20070125,20080421,20080625</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 7-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 03/27/09.

Claim Objections

Claim 6 is objected to because of the following informalities: the claim language “for applying elastic force for applying elastic force” on lines 2-3 is redundant. Appropriate correction is required.

Claim 12 is objected to because of the following informalities: there is a typo on line 2. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Harmer [US 4,315,147].

In regard to claim 1, Harmer teaches in [Fig. 1] a variable hand switch, controlling an amount of light emitted from light projecting means [Fig. 1], receiving the light with the amount changed, by light receiving means 9, and transmitting information of the received light to a body, comprising: a wall [1d] arranged opposite to the light projecting means and the light receiving means and a light amount changing area [1c] provided on the wall for changing the amount of light projected from the light projecting means in accordance with relative movement between the wall and the light projecting means and the light receiving means.

In regard to claim 2, Harmer teaches in [Fig. 1] a variable hand switch, controlling reflectance of light emitted from light projecting [Fig. 1] and receiving means [Fig. 1] and transmitting change in reflectance to a body, comprising: a movable wall [1d] provided continuously movable between a first position and a second position, and arranged opposite to the light projecting and receiving means and a light reflecting area [1c] provided on a surface of the movable wall facing the light projecting and receiving means having at least two areas providing different reflectance of light projected from the light projecting and receiving means, along with movement of the movable wall.

In regard to claim 5, Harmer teaches in [Fig. 1] that the movable wall is formed of a hanging wall extended from a pressing area [1f] member positioned on a surface side of the variable hand switch in the direction of pressing; and the first position of the movable wall is selected when the pressing area member is not pressed, and the second position of the movable wall is selected by gradually pressing the pressing area member.

Art Unit: 2833

In regard to claim 6, Harmer teaches in [Fig. 1] that the pressing area member has means [2] for applying elastic force acting in a direction opposite to the direction of pressing when the pressing area member is pressed in the pressing direction.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harmer [US 4,315,147]. Harmer discloses the claimed invention except for having two switches instead of one. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide two switches, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Allowable Subject Matter

Claims 3, 4 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 2833

In regard to claim 3, the prior art does not show or teach that the reflecting area has a colored area with gradation, in which color tone changes gradually along the direction of movement of the movable wall.

In regard to claim 4, the prior art does not show or teach that the reflecting area includes a first colored area and a second colored area having darker colored area than the first colored area, arranged along the direction of movement of the movable wall.

In regard to claim 13, the prior art does not show or teach the claimed switch with an air bag for transmitting injection pressure of injecting a chemical to the patient.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LHEIREN MAE A. ANGLO whose telephone number is (571)272-2730. The examiner can normally be reached on Monday to Friday 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on (571) 272-2009. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2833

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. A. A./
Examiner, Art Unit 2833

/renee s luebke/
Renee Luebke
Supervisory Patent Examiner
AU 2833